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8 Stetson University, Inc.

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 STETSON UNIVERSITY, INC., a Florida )  
14 not for profit corporation, )

15 Plaintiff, )

16 vs. )

17 FREDERICK G. ACKER, as personal )  
representative of the Estate of C. Paul )  
18 Johnson a/k/a Chauncey Paul Johnson; )  
THE C. PAUL JOHNSON FAMILY )  
19 CHARITABLE FOUNDATION, INC., a )  
Maryland not for profit corporation; and )  
20 FREDERICK G. ACKER as Trustee for )  
the C. Paul Johnson 2003 Trust, )

21 Defendants. )  
22 )  
23 )  
24 )  
25 )  
26 )

Case No.

**COMPLAINT FOR DAMAGES AND  
DECLARATORY RELIEF**

1  
2 STETSON UNIVERSITY, INC., for its complaint, alleges as follows:

3  
4 **I. JURISDICTION**

5 1. This Court has jurisdiction over the subject matter of this action pursuant to  
6 28 U.S.C. §1332(a) because the matter in controversy exceeds the sum of \$75,000,  
7 exclusive of interests and costs, and is between a citizen of the State of Florida and citizens  
8 of the States of California, Illinois, and Maryland.

9 **II. VENUE**

10 2. Venue is proper in this District, pursuant to 28 U.S.C. §1391(a), because the  
11 Estate of C. Paul Johnson resides in this district and because a substantial part of the events  
12 and omissions upon which this action is based took place in this District.

13 **III. PARTIES**

14 3. Plaintiff STETSON UNIVERSITY, INC. (“Stetson” or “Plaintiff”), is a  
15 Florida not for profit Corporation, and is now, and at all relevant times has been, an  
16 educational institution located and operated in the State of Florida and is a citizen of  
17 Florida.

18 4. FREDERICK G. ACKER is the duly appointed and acting executor of the  
19 will of C. Paul Johnson (“Decedent”). Decedent was a resident of Sonoma County,  
20 California and a citizen of California at the time of his death on April 9, 2015.  
21 FREDERICK G. ACKER as the personal representative of the Estate of C. Paul Johnson  
22 (the “Estate”), accordingly, is a citizen of California. The Estate is, at the time of this  
23 filing, a pending probate matter in Superior Court of California, County of Sonoma, case  
24 no. 87998.

25 5. THE C. PAUL JOHNSON FAMILY CHARITABLE FOUNDATION, INC.  
26 (the “Foundation”), is now and at all relevant times has been a Maryland nonprofit

1 corporation and a citizen of the State of Maryland.

2 6. FREDERICK G. ACKER, as trustee of the C. Paul Johnson 2003 Trust (the  
3 "Trust"), is a resident and citizen of the State of Illinois.

4 **IV. PRELIMINARY FACTUAL ALLEGATIONS**

5 7. Plaintiff is informed and believes, and thereon alleges, that on or about  
6 September 21, 2007, Decedent C. Paul Johnson, on behalf of the Foundation, signed a  
7 Stetson University Student Residential Facilities Statement of Intent ("First Pledge")  
8 indicating the Foundation pledged \$1,500,000 to Stetson "to provide funds for naming a  
9 residence hall Hon Hall." The First Pledge set forth an expected payment schedule of  
10 \$200,000 by May 2008 for fiscal year 2007-08; \$300,000 by May 2009 for fiscal year  
11 2008-09; and then \$100,000 by May, annually, for ten years, for fiscal years 2009 through  
12 2019, inclusive.

13 8. Also, on or about September 21, 2007, Stetson hosted a dedication ceremony  
14 at Stetson University during which it named one of its student residence halls "Hon Hall."  
15 A plaque designating the naming of Hon Hall had been prepared and affixed to the  
16 building. Representatives of the University, Decedent and members of his family and  
17 friends, attended the dedication ceremony.

18 9. On or about June 20, 2008, the Foundation made a Pledge payment of  
19 \$200,000 to Stetson as set forth in the First Pledge.

20 10. On or about June 17, 2009, the Foundation made another Pledge payment of  
21 \$125,000 to Stetson.

22 11. No Pledge payments were made by the Foundation or the Decedent in 2010.

23 12. In 2011, the Foundation made two payments to Stetson. On or about May 2,  
24 the Foundation made a Pledge payment in the amount of \$75,000 and, on or about  
25 September 25, made a Pledge payment in the amount of \$55,357.69.

26 13. On August 20, 2012, Decedent C. Paul Johnson personally made a Pledge

1 payment to Stetson in the amount of \$43,642.31.

2       14. On December 31, 2013, Decedent personally and on behalf of the Foundation  
3 signed a Statement of Intent Revised ("Second Pledge") which acknowledged the First  
4 Pledge, reaffirmed the total pledged amount of \$1,500,000 in exchange for naming a  
5 residence hall Hon Hall; set forth the amount remaining due on that total, \$951,000; and set  
6 forth an intended payment schedule of: \$51,000 in December 2013 for fiscal years 2013-  
7 2014; \$100,000 annually by each December of years 2014-2018 for the fiscal years 2014-  
8 2019; \$200,000 by December 2019 for fiscal year 2019-2020; and finally \$200,000 by  
9 December 2020 for fiscal year 2020-2021. The Second Pledge further stated (i) the  
10 Decedent personally intended to fulfill the pledged and (ii): "If this commitment is not  
11 fulfilled by the time of my passing, it is my intent that this commitment be fulfilled by my  
12 estate." The First and Second Pledge are hereinafter collectively referred to as the  
13 "Pledges."

14       15. The Foundation made a Pledge payment to Stetson on December 31, 2013 in  
15 the amount of \$51,000 but has made none since.

16       16. On information and belief, C. Paul Johnson died on April 9, 2015. A petition  
17 for probate of the Estate of C. Paul Johnson, also known as Chauncey Paul Johnson, was  
18 filed in Superior Court of California, County of Sonoma on June 11, 2015 and is now a  
19 pending proceeding in the Probate Division, case number 87998 (the "Probate Case").  
20 William G. Acker, the executor of Decedent's Will, is the duly appointed and acting  
21 personal representative of the Decedent and the Decedent's estate.

22       17. On information and belief, William G. Acker is also the trustee of the C. Paul  
23 Johnson 2003 Trust. On information and belief, the C. Paul Johnson 2003 Trust became  
24 irrevocable upon the death of Mr. Johnson on April 9, 2015, and is, pursuant to California  
25 Probate Code section 19001, liable for the debts of Decedent's estate.

26       18. Stetson made numerous attempts to contact the Foundation and the Decedent,

1 prior to his passing, and the Estate, to obtain the outstanding Pledged payments. These  
2 attempts produced no payments from either the Foundation or the Decedent or his Estate.

3 19. On November 23, 2015, Stetson filed a Creditor's Claim in the Probate Case  
4 for the entire amount of the Second Pledge remaining, \$900,000. On February 18, 2016,  
5 the attorneys for the personal representative, McDermott Will & Emery, informed Stetson  
6 by letter that the Decedent's Pledges are not legally binding and the Estate plan does not  
7 include provisions for the Pledges to Stetson. Mr. Acker, as the personal representative of  
8 the Estate, rejected Stetson's claim on February 26, 2016.

9 20. As of the date of filing suit, the amount of outstanding Pledge payments now  
10 due and owing to Stetson is \$200,000 (for fiscal years 2014-16).

11 21. As of the date of filing suit, Hon Hall at Stetson University continues to be  
12 named "Hon Hall."

### 13 **FIRST CLAIM FOR RELIEF**

14 (Enforcement of Charitable Pledge by Promissory Estoppel -- against all defendants)

15 22. Plaintiff realleges and incorporates by reference the allegations of paragraphs  
16 1 through 21, inclusive, as if set forth herein.

17 23. During the lifetime of C. Paul Johnson, C. Paul Johnson and the Foundation  
18 made two clear and unambiguous promises to provide \$1,500,000 to Stetson University in  
19 exchange for naming one of its student residence halls "Hon Hall." The First Pledge was  
20 made on September 21, 2007 and the Second Pledge was made on December 31, 2013. In  
21 the Second Pledge, Mr. Johnson stated his intent to complete the Pledge payments if he  
22 were alive, and if he predeceased the completion of those Pledge payments, they would be  
23 satisfied by his personal Estate.

24 24. On information and belief, Defendants knew Plaintiff relied upon the First  
25 Pledge because Stetson hosted a dedication ceremony for Hon Hall concurrently with the  
26 signing of the First Pledge. Defendants knew Plaintiff relied upon the Second Pledge

1 because they maintained the name of “Hon Hall” with the understanding further payments  
2 would be forthcoming, particularly since the Decedent made a personal promise, above and  
3 beyond the Foundation, that either he or his estate would complete the Pledge payments.

4 25. Stetson reasonably relied upon these Pledges in that, since the date of the  
5 dedication ceremony for Hon Hall, the Foundation and the Decedent made, collectively, 6  
6 payments on both the First and Second Pledge over the course of 5 years for a total amount  
7 of \$600,000.

8 26. As a consequence of the Defendants actions, Plaintiff has been damaged by  
9 the Defendant’s failure to complete payments due up to the date of filing suit, in the  
10 amount of \$200,000, plus interest as allowed by law. To the extent additional payments  
11 under the Pledges become due before judgment is entered in this action, Plaintiff will  
12 supplement this complaint to allege the additional payments due.

### 13 **SECOND CLAIM FOR RELIEF**

14 (Declaratory Relief – against all defendants)

15 27. Plaintiff realleges and incorporates by reference the allegations of paragraphs  
16 1 through 26, inclusive, as if set forth herein.

17 28. An actual controversy has arisen and now exists between Plaintiff and  
18 Defendants. Plaintiff contends Defendants are obligated to fulfill their Second Pledge to  
19 complete payment of the charitable pledges of Decedent.

20 29. Plaintiff respectfully requests a judicial determination of the respective rights  
21 and duties of Plaintiff and Defendants with respect to the obligations of Defendants under  
22 the Second Pledge, the December 31, 2013 Statement of Intent Revised. In particular,  
23 Plaintiff seeks a declaration that the Defendants are obligated to complete payment of  
24 \$900,000 of the total pledged amount of \$1,500,000, and for all costs incurred in pursuit of  
25 this relief, as described above.  
26

**PRAYER FOR RELIEF**

Wherefore, plaintiff prays for judgment as follows:

1. For a decree and judgment of specific performance of the Second Pledge directing the personal representative of the Estate to allow the Creditor's Claim filed by Stetson in the Probate Case or, in the alternative, for an award of damages against the personal representative in an amount of no less than \$200,000 or whatever amount is due under the Statement of Intent Revised dated December 31, 2013 at the time judgment is entered;
2. For a declaration the Defendants are obligated to fulfill the Second Pledge as embodied in the Statement of Intent Revised on December 31, 2013 and complete payments of the pledge in the remaining amount of \$900,000.
3. For compensatory damages according to proof at trial, including interest thereon, as allowed by law;
4. For attorneys' fees and costs of suit, as allowed by law;
5. For such other and further relief as this Court may deem proper.

Dated: April 11, 2016

KEEGIN HARRISON SCHOPPERT  
SMITH & KARNER LLP

By: /s/ Lynde Selden III  
Lynde Selden III  
Attorneys for plaintiff  
Stetson University, Inc.

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: April 11, 2016

KEEGIN HARRISON SCHOPPERT  
SMITH & KARNER LLP

By: /s/ Lynde Selden III  
Lynde Selden III  
Attorneys for plaintiff  
Stetson University, Inc.